

Pursuant to 28 U.S.C. § 1915A(a), the Court is required to “review . . . as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.” Under 28 U.S.C. § 1915A(b), the Court is required to dismiss plaintiff’s complaint if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if “it lacks an arguable basis in either law or in fact.” Neitzke v. Williams,

490 U.S. 319, 328 (1989). An action fails to state a claim upon which relief can be granted if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

### **The Complaint**

Plaintiff, an inmate at Eastern Reception, Diagnostic and Correctional Center (“ERDCC”), brings this action pursuant to 42 U.S.C. § 1983 alleging violations of his civil rights. Named as the defendants are Steve Larkin, Superintendent of the ERDCC, and Larry Crawford, Director of the Missouri Department of Corrections. Plaintiff claims that upon reception at ERDCC he was immediately placed in administrative segregation, or “protective custody.” Plaintiff asserts that his designation and conditions of confinement in “protective custody” violate both the Eighth Amendment of the United States Constitution and several regulations promulgated by the Missouri Department of Corrections. Plaintiff additionally alleges that the ERDCC regulations purportedly applicable to him during his confinement in protective custody violate his right to counsel under the Sixth Amendment. Plaintiff’s claims, as summarized above, survive initial review at this time.

Accordingly,

**IT IS HEREBY ORDERED** that the Plaintiff shall issue process or cause process to issue on the complaint.

Dated this 11th Day of February, 2009.

/s/Mary Ann L. Medler

MARY ANN L. MEDLER

UNITED STATES MAGISTRATE JUDGE